

**2009 DRAFTING REQUEST**

**Bill**

Received: 10/12/2009

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC**

By/Representing: **Laura Rose**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - other**

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email: **Laura.Rose@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Guardian ad litem for safety responsibility settlement

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 10/13/2009	bkraft 10/14/2009		_____			
/P1			rschluet 10/15/2009	_____	cduerst 10/15/2009		
/1	agary 01/19/2010	bkraft 01/19/2010	mduchek 01/20/2010	_____	cduerst 01/20/2010	cduerst 01/20/2010	

FE Sent For:

<END>

↳ Not  
Needed

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/?	agary 10/13/2009	bkraft 10/14/2009					
/P1			rschluet 10/15/2009		cduerst 10/15/2009		

/1 bjk/19

✓ 15-11-09  
**<END>**

PA's :  
Please jacket  
for senate.  
Thx. KMG

FE Sent For:

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agary

PI bjk<sup>10</sup>

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KL 10  
JH 15

10/14/09

FE Sent For:

<END>

# REMEDIAL LEGISLATIVE PROPOSAL

Wisconsin Department of Transportation

DT1605 10/2006 s.13.83(1)(c)4 Wis. Stats.

**Instructions:** Complete this form for **Law Revision Committee Remedial Legislative proposal(s)** for which a Division requests Secretary's Office (SO) approval. This form must be signed by the Division Administrator.

Short Title of Issue Guardian ad litem for safety responsibility settlement	
Date Submitted September 15, 2008	Division Division of Motor Vehicles
Lead Division Contact Person Mitch Warren	Area Code - Telephone Number 608-266-1449
Specific Statutory Change 344.14(2)(h)	
Administrative Problem with Current Statute 344.14(2)(h) requires minors who own vehicles who receive damage settlements over \$5,000 to have a guardian ad litem before DMV can accept the settlement and allow the uninsured at-fault party to reinstate their driving and vehicle registration privileges. The proposed change would remove the \$5,000 limit and allow DMV to accept the release from a parent, guardian, or guardian ad litem.	
Justification/Need for Change The guardian ad litem requirement results in an extra cost for the minor, since they must retain an attorney and go to court to have the guardian appointed. It also causes unnecessary delays in the reinstatement process.	
Fiscal Effect, If Any None	

*Lynne B. Judd*

(Division Administrator Signature – Brush Script Font If Computer Filled)

September 15, 2008

(Date)

OPBF Completes: DOT Remedial Legislation Proposal Number  
R 0911-06

2001 - 2002 LEGISLATURE

2001 BILL

soon

LRB 1238/1

ARG:kl:pg

RMNR

Please  
PWF

FROM  
2007  
1238/1

Inserts

SA  
x-ref

the liability release exception to the  
requirement that proof of

regen.

1 AN ACT to repeal 344.04 (2), 344.15 (2) (b) and 344.32; to consolidate,  
2 renumber and amend 344.15 (2) (intro.) and (a); and to amend 343.39 (1) (a),  
3 344.04 (1), 344.14 (2) (h), 344.15 (3), 344.18 (1) (b), 344.18 (1m) (a), 344.18 (3m)  
4 (a), 344.26 (1), 344.27 (2), 344.30 (1), 344.33 (1), 344.34, 344.42 and 631.37 (4)  
5 (e) of the statutes; relating to: financial responsibility ~~for the operation of~~ <sup>be provided after a</sup>  
6 motor vehicle ~~accident~~ <sup>accident</sup> (suggested as remedial legislation by the

#### Analysis by the Legislative Reference Bureau

Under current law, if a motor vehicle accident results in injury, death, or property damage of \$1,000 or more, the Department of Transportation (DOT) is required to notify the operator and owner of the vehicle involved in the accident that the person must deposit with DOT security for the accident in an amount specified by DOT, which DOT has determined is sufficient to satisfy any judgment for damages resulting from the accident. Unless an exception applies, if a person fails to timely deposit security after this notice is given, DOT must suspend the person's operating privilege if the person was the vehicle operator and suspend all vehicle registrations of the person if the person was the vehicle owner, and DOT may also order certain vehicles impounded. Under one exception, security is not required to be deposited if the person can provide proof of financial responsibility (including that an applicable motor vehicle liability insurance policy or bond was in effect at the time of the accident providing ~~not less than the following amounts for any single accident~~

(certain minimum amounts of coverage)



## BILL

~~\$25,000 for one person, \$50,000 for more than one person, and \$10,000 for property damage.~~

Under another exception, security is not required to be deposited if, prior to suspension of the person's operating privilege or vehicle registration, satisfactory evidence is filed with DOT that the person has been released from liability, has been adjudicated as not liable, or has executed an agreement to pay an agreed amount of damages to settle all claims. DOT may accept a liability release executed by a parent as natural guardian on behalf of a minor child only if the total damages do not exceed \$5,000 and a doctor certifies that the minor received no permanent injury.

Under this bill, DOT may, without limitation, accept a liability release executed by a parent as natural guardian or by a guardian ad litem on behalf of a minor child.

Under current law, upon receiving notice from DOT of its intent to suspend a person's vehicle registration or impound a person's vehicle, the person may file a petition in court seeking an order to enjoin DOT from suspending the vehicle registration or impounding the vehicle. Upon the filing of the petition, the court must restrain DOT until the petition is finally determined. If the person shows that suspending the vehicle registration or impounding the vehicle would result in undue hardship to the person, the court must issue an order restraining DOT from suspending the registration or impounding the vehicle.

This bill eliminates this provision that allows a person to seek a court restraining order prior to an administrative hearing on DOT's suspension of a vehicle registration or impoundment of a vehicle. The bill does not affect any remedies available to a person under current law during court review following the administrative hearing and decision.

Under current law, a motor vehicle liability insurance policy or bond, offered as proof of financial responsibility to avoid the deposit of security after an accident or following entry of judgment arising from an accident, must generally be issued by an insurer authorized to do an automobile liability or surety business in this state. However, if the vehicle involved in the accident was not registered in this state when the most recent policy or bond period commenced or the judgment is entered against a nonresident, the policy or bond covering the vehicle is acceptable proof of financial responsibility, even if it is not issued by an insurer authorized to do an automobile liability or surety business in this state, if it meets certain liability limits (generally, those described above) and the insurer that issued the policy or bond executes a power of attorney authorizing DOT to accept service of process in any action upon the policy or bond arising out of the accident or another accident in this state.

This bill eliminates the requirement that, for a policy or bond issued by an insurer not authorized to do an automobile liability or surety business in this state to be acceptable proof of financial responsibility, the insurer execute a power of attorney authorizing DOT to accept service of process. The bill does not affect current law provisions providing that a nonresident's operation of a motor vehicle on the state's highways constitutes an authorization for DOT to receive service of process for the nonresident or his or her personal representative in any action relating to damage resulting from the vehicle operation.

Under current law, any person whose operating privilege or vehicle registration has been suspended for failure to deposit security or demonstrate financial

**BILL**

responsibility after an accident or judgment arising from an accident must provide (and maintain in effect) proof of financial responsibility as a condition of reinstatement of the operating privilege or vehicle registration unless at least three years have elapsed since the person became eligible for reinstatement of the operating privilege or vehicle registration. (This applies to any resident or nonresident operator or owner of a motor vehicle involved in an accident in this state.) DOT may also require proof of financial responsibility in other circumstances, including for issuance of an operator's license after revocation by this state of a person's operating privilege. A nonresident may give proof of financial responsibility by furnishing certification of a motor vehicle liability insurance policy in effect for the benefit of the nonresident, issued by an insurer that satisfies specified requirements, which requirements are specific to nonresidents.

This bill eliminates any requirement that nonresidents provide proof of financial responsibility with respect to reinstatement of a suspended operating privilege or registration in this state, and repeals the provision specifying the form of, and requirements related to, proof of financial responsibility provided by nonresidents.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

insert  
ANAL

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 343.39 (1) (a) of the statutes is amended to read:

343.39 (1) (a) When, in the case of a suspended operating privilege, the period of suspension has terminated, the reinstatement fee specified in s. 343.21 (1) (j) has been paid to the department and, for reinstatement of ~~an~~ the operating privilege of a resident suspended under ch. 344, the person files with the department proof of financial responsibility, if required, in the amount, form and manner specified under ch. 344.

**SECTION 2.** 344.04 (1) of the statutes is amended to read:

344.04 (1) Notwithstanding any other provision of this chapter, the secretary shall not suspend the registration of a vehicle when ordered not to do so by the court wherein the judgment for damages was had ~~or, in a case not involving a judgment,~~

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## BILL

~~when ordered not to do so by a court under petition of the registrant in accordance with sub. (2).~~

~~SECTION 3. 344.04 (2) of the statutes is repealed.~~

SECTION 4. 344.14 (2) (h) of the statutes is amended to read:

344.14 (2) (h) To any person who would otherwise have to deposit security if, prior to the date the secretary would otherwise suspend the person's operating privilege and registrations under sub. (1) or order the impoundment of the motor vehicle under sub. (1m), there is filed with the secretary evidence satisfactory to the secretary that the person has been released from liability or has been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damage resulting from the accident. The secretary may accept a release from liability executed by a parent as natural guardian or by a guardian ad litem on behalf of a minor child with respect to property damage or personal injuries sustained by the minor, ~~provided that the total damages, including the cost of medical care, do not exceed \$5,000 and that, in case of personal injury, the doctor's certificate of injury filed with the department certifies that the minor received no~~ permanent injury.

~~SECTION 5. 344.15 (2) (intro.) and (a) of the statutes are consolidated, renumbered 344.15 (2) and amended to read:~~

~~344.15 (2) A policy or bond with respect to a vehicle which was not registered in this state or was registered elsewhere at the time of the effective date of the policy or bond or the most recent renewal thereof may be effective under s. 344.14 even though not issued by an insurer authorized to do an automobile liability or surety business in this state if the following conditions are complied with: (a) The the policy~~

**BILL**

1 or bond either meets the liability limits specified in sub. (1) or meets the liability  
2 limits of the equivalent law of the state in which issued and such limits are, in the  
3 judgment of the secretary, adequate to cover any damage or injury involved in the  
4 accident in question.

5 **SECTION 6.** 344.15 (2) (b) of the statutes is repealed.

6 **SECTION 7.** 344.15 (3) of the statutes is amended to read:

7 344.15 (3) Where service of process is made on the secretary under a power of  
8 attorney filed in accordance with sub. (2), the secretary shall forthwith mail by  
9 registered mail a copy of the process papers to the insurer at the address given in the  
10 filed power of attorney. In all cases of such service, there shall be served 2  
11 authenticated copies for the secretary and such additional number of authenticated  
12 copies as there are defendants so served in the action. One of the secretary's copies  
13 shall be retained for the secretary's record of service and the other copy shall be  
14 returned with proper certificate of service attached for filing in court as proof of  
15 service of the copies by having mailed them by registered mail to the defendants  
16 named therein. The service fee shall be \$4 for each defendant so served.

17 **SECTION 8.** 344.18 (1) (b) of the statutes is amended to read:

18 344.18 (1) (b) There is filed with the secretary evidence satisfactory to the  
19 secretary that the person whose operating privilege or registration was suspended  
20 or revoked has been released from liability or has been finally adjudicated not to be  
21 liable. The secretary may accept a release executed by a parent on behalf of a minor  
22 child only if the release satisfies the requirements specified in as provided under s.  
23 344.14 (2) (h).

24 **SECTION 9.** 344.18 (1m) (a) of the statutes is amended to read:

## BILL

1        344.18 (1m) (a) Unless 3 years have elapsed since the date that a requirement  
2        under sub. (1) (a), (b), (c) or (d) has been met or unless the person is a nonresident,  
3        the person whose operating privilege or registration was suspended or revoked  
4        under s. 344.14 shall file with the department and maintain in effect proof of  
5        financial responsibility in the amount, form and manner specified in this chapter.

6        **SECTION 10.** 344.18 (3m) (a) of the statutes is amended to read:

7        344.18 (3m) (a) Unless 3 years have elapsed since the date that a requirement  
8        under sub. (3) (a) or (b) has been met or unless the person is a nonresident, the person  
9        whose operating privilege or registration was suspended or revoked under sub. (3)  
10       shall file with the department and maintain in effect proof of financial responsibility  
11       in the amount, form and manner specified in this chapter.

12       **SECTION 11.** 344.26 (1) of the statutes is amended to read:

13       344.26 (1) Subject to the exceptions stated in ss. 344.25 (2) and 344.27 (2), any  
14       operating privilege or registration suspended or revoked under s. 344.25 shall  
15       remain suspended or revoked until every judgment mentioned in s. 344.25 is stayed,  
16       satisfied, or discharged and, unless 3 years have elapsed since the date on which the  
17       judgment was stayed, satisfied, or discharged or unless the person is a nonresident,  
18       until the person whose operating privilege and registration was suspended or  
19       revoked furnishes and maintains in effect proof of financial responsibility for the  
20       future.

21       **SECTION 12.** 344.27 (2) of the statutes is amended to read:

22       344.27 (2) The secretary shall not suspend the operating privilege or  
23       registration and shall restore any operating privilege or registration suspended  
24       following nonpayment of a judgment when the judgment debtor obtains such order  
25       permitting the payment of the judgment in installments and, unless 3 years have

**BILL**

1 elapsed since the date on which the order permitting the payment of the judgment  
2 in installments is filed with the secretary or unless the judgment debtor is a  
3 nonresident, furnishes and maintains proof of financial responsibility for the future.

4 **SECTION 13.** 344.30 (1) of the statutes is amended to read:

5 344.30 (1) Certification of insurance as provided in s. 344.31 ~~or 344.32~~; or

6 **SECTION 14.** 344.32 of the statutes is repealed.

7 **SECTION 15.** 344.33 (1) of the statutes is amended to read:

8 344.33 (1) CERTIFICATION. In this chapter, "motor vehicle liability policy" means  
9 a motor vehicle policy of liability insurance, certified as provided in s. 344.31 ~~or~~  
10 ~~344.32~~ as proof of financial responsibility for the future, and issued, ~~except as~~  
11 ~~otherwise provided in s. 344.32~~, by an insurer authorized to do an automobile  
12 liability business in this state to or for the benefit of the person named in the policy  
13 as the insured.

14 **SECTION 16.** 344.34 of the statutes is amended to read:

15 **344.34 Notice of cancellation or termination of certified policy.** When  
16 an insurer has certified a motor vehicle liability policy under s. 344.31, ~~a policy under~~  
17 ~~s. 344.32~~ or a bond under s. 344.36, the insurance so certified shall not be canceled  
18 or terminated until at least 10 days after a notice of cancellation or termination of  
19 the insurance so certified has been filed in the office of the secretary. No insurance  
20 so certified may be canceled or terminated by the insurer prior to the expiration of  
21 90 days from the effective date of the certification on the grounds of failure to pay a  
22 premium when due. Such a certified policy or bond subsequently procured shall, on  
23 the effective date of its certification, terminate the insurance previously certified.  
24 Any certification or recertification filed by the same insurer following cancellation  
25 shall be accompanied by a fee of \$3 payable by the insurer.

## BILL

## SECTION 17

1 SECTION 17. 344.42 of the statutes is amended to read:

2 **344.42 Submission of certifications and recertifications by insurers.**

3 If the sum of certifications and recertifications under ss. 344.31, 344.32 and 344.34  
4 that are submitted by an insurer to the department in any year exceeds 1,000, the  
5 insurer shall pay to the department a transaction fee of \$1.50 per certification or  
6 recertification that is not transmitted electronically to the department. The  
7 department shall promulgate rules establishing procedures for the collection of  
8 transaction fees under this section.

9 SECTION 18. 631.37 (4) (e) of the statutes is amended to read:

10 631.37 (4) (e) *Motor vehicle liability policy.* Section 344.34 applies to motor  
11 vehicle liability policies certified under s. 344.31 and to policies certified under s.  
12 344.32.

13 **SECTION 19. Initial applicability.**

14 (1) <sup>This act</sup> The treatment of sections 344.30 (1), 344.32, 344.33 (1), 344.34, 344.42, and  
15 631.37 (4) (e) of the statutes first applies to proof of financial responsibility filed with  
16 the secretary of transportation on the effective date of this subsection.

17 (2) The treatment of sections 344.14 (2) (h), 344.15 (2) (intro.), (a), and (b),  
18 344.15 (3), and 344.18 (1) (b) of the statutes first applies with respect to accidents  
19 occurring on the effective date of this subsection.

20 (3) The repeal of section 344.04 (2) of the statutes first applies with respect to  
21 notices from the secretary of transportation described in section 344.04 (2) of the  
22 statutes issued on the effective date of this subsection.

23 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3666/P1ins  
ARG:.....

1           **INSERT ANAL:**

          For further information, see the NOTES provided by the Law Revision  
Committee of the Joint Legislative Council.

2

3

4           **INSERT 3-1:**

          LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation  
proposal, requested by the Department of Transportation and introduced by the Law  
Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of  
the various provisions of the bill, the Law Revision Committee has determined that this  
bill makes minor substantive changes in the statutes, and that these changes are  
desirable as a matter of public policy.



**Gary, Aaron**

---

**From:** Rose, Laura  
**Sent:** Monday, January 18, 2010 11:55 AM  
**To:** Gary, Aaron; Mueller, Eric  
**Subject:** DOT law revision drafts

**Attachments:** SECTION Notes to LRB 3666.doc; SECTION Notes lrb 3717.doc; SECTION NOTES LRB 3685.doc; SECTION NOTES LRB 3667.doc; SECTION NOTES.3670.doc; SECTION NOTES 3665.doc

Hi Aaron and Eric,

I'm attaching the SECTION notes that should be included in the DOT remedial drafts approved for introduction by the Law Revision Committee (LRBs 3666, 3717, 3685, 3667, 3670, and 3665).

Could you please draft these drafts as Senate bills, for introduction by the Law Revision Committee, and include the notes? Please give me a call if you have any questions.

Thank you!

Laura



SECTION Notes to LRB 3666.doc ... SECTION Notes lrb 3717.doc (23... SECTION NOTES LRB 3685.doc (23... SECTION NOTES LRB 3667.doc (24... SECTION NOTES.3670.doc (23 KB) SECTION NOTES 3665.doc (24 KB)...

*Laura D. Rose, Deputy Director*  
Wisconsin Legislative Council  
One East Main Street, Suite 401  
PO Box 2536  
Madison, WI 53701-2536  
tel: 608.266.9791  
fax: 608.266.3830  
[laura.rose@legis.wisconsin.gov](mailto:laura.rose@legis.wisconsin.gov)



State of Wisconsin  
2009 - 2010 LEGISLATURE

soon

LRB-3666/01

ARG:bjk:rs

in 1/19

stays

NMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

LPS: I have the LC Note in  
word. let me know if you  
want it. Thx Aaron

SA

Insert

regen.

- 1 AN ACT *to amend* 344.14 (2) (h) and 344.18 (1) (b) of the statutes; **relating to:**
- 2 the liability release exception to the requirement that proof of financial
- 3 responsibility be provided after a motor vehicle accident (suggested as remedial
- 4 legislation by the Department of Transportation).

***Analysis by the Legislative Reference Bureau***

Under current law, if a motor vehicle accident results in injury, death, or property damage of \$1,000 or more, the Department of Transportation (DOT) is required to notify the operator and owner of the vehicle involved in the accident that the person must deposit with DOT security for the accident in an amount specified by DOT, which DOT has determined is sufficient to satisfy any judgment for damages resulting from the accident. Unless an exception applies, if a person fails to timely deposit security after this notice is given, DOT must suspend the person's operating privilege if the person was the vehicle operator and suspend all vehicle registrations of the person if the person was the vehicle owner, and DOT may also order certain vehicles impounded. Under one exception, security is not required to be deposited if the person can provide proof of financial responsibility (including that an applicable motor vehicle liability insurance policy or bond was in effect at the time of the accident providing certain minimum amounts of coverage). Under another exception, security is not required to be deposited if, prior to suspension of the person's operating privilege or vehicle registration, satisfactory evidence is filed with DOT that the person has been released from liability, has been adjudicated as not liable, or has executed an agreement to pay an agreed amount of damages to settle

all claims. DOT may accept a liability release executed by a parent as natural guardian on behalf of a minor child only if the total damages do not exceed \$5,000 and a doctor certifies that the minor received no permanent injury.

Under this bill, DOT may, without limitation, accept a liability release executed by a parent as natural guardian or by a guardian ad litem on behalf of a minor child.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Transportation and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1       **SECTION 1.** 344.14 (2) (h) of the statutes is amended to read:

2       344.14 (2) (h) To any person who would otherwise have to deposit security if,  
3       prior to the date the secretary would otherwise suspend the person's operating  
4       privilege and registrations under sub. (1) or order the impoundment of the motor  
5       vehicle under sub. (1m), there is filed with the secretary evidence satisfactory to the  
6       secretary that the person has been released from liability or has been finally  
7       adjudicated not to be liable or has executed a duly acknowledged written agreement  
8       providing for the payment of an agreed amount in installments with respect to all  
9       claims for injuries or damage resulting from the accident. The secretary may accept  
10      a release from liability executed by a parent as natural guardian or by a guardian  
11      ad litem on behalf of a minor child with respect to property damage or personal  
12      injuries sustained by the minor, ~~provided that the total damages, including the cost~~  
13      ~~of medical care, do not exceed \$5,000 and that, in case of personal injury, the doctor's~~  
14      ~~certificate of injury filed with the department certifies that the minor received no~~  
15      permanent injury.

insert  
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**SECTION 2.** 344.18 (1) (b) of the statutes is amended to read:

344.18 (1) (b) There is filed with the secretary evidence satisfactory to the secretary that the person whose operating privilege or registration was suspended or revoked has been released from liability or has been finally adjudicated not to be liable. The secretary may accept a release executed by a parent on behalf of a minor child only if the release satisfies the requirements specified in as provided under s. 344.14 (2) (h).

### SECTION 3. Initial applicability.

(1) This act first applies with respect to accidents occurring on the effective date of this subsection.

**(END)**

Received from LC

SECTION Notes to LRB 3666

NOTE:

Place after SECTION 1 This statute, 341.14(2)(h), allows the department to accept a release of liability executed by a parent as natural guardian on behalf of a minor child with respect to property damage or personal injuries sustained by the minor, provided that the total damages, including the cost of medical care, do not exceed \$5000 and that, in case of personal injury, the doctor's certificate of injury filed with the department certifies that the minor received no permanent injury. This must be done before the department can accept the settlement and allow the uninsured at-fault party to reinstate their driving and vehicle registration privileges. This SECTION amends that statute to remove the \$5000 limits and allows the department to accept the release from a parent as natural guardian, or a guardian ad litem.

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